IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929

WP(C).No. 23317 of 2007(A)

PETITIONER:

DIVAKARAN NAIR, S/O GOVINDAN NAIR,
AGED 54, MANAGING PARTNER, SANDHYA TOURIST COMPLEX, CHANGANACHERRY.

BY ADV. SRI.JOHNSON MANAYANI
SRI.BENHUR JOSEPH MANAYANI

RESPONDENTS:
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1. KERALA STATE CO-OPERATIVE BANK LTD., REGIONAL OFFICE, OVERBRIDGE JUNCTION, THIRUVANANTHAPURAM-1, REPRESENTED BY ITS GENERAL MANAGER.

2. THE AUTHORISED OFFICER, KERALA STATE CO-OPERATIVE BANK LTD., REGIONAL OFFICE, OVERBRIDGE JUNCTION, THIRUVANANTHAPURAM-1.

3. THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO CO-OPERATION, SECRETARIAT, TRIVANDRUM.

BY ADV. SRI.NAGARAJ NARAYANAN,SC,K.S.CO-OP BANK

R3 BY GOVERNMENT PLEADER (SHRI BASANTH BALAJI)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.23317 of 2007

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Dated this the 31st day of July, 2007

JUDGMENT

Petitioner seeks to challenge Ext.P1 and seeks to return the properties mentioned in Ext.P1. He also seeks a declaration that Ext.P1 is bad and illegal. Case of the petitioner in brief is as follows:

Petitioner is the Managing Partner of a concern. The establishment was taken possession of by the respondent Bank. Everything is in stand still. The business is doomed and the employees are starved. There are 51 employees employed in the concern. A bar restaurant is now closed and the establishment is worth more than Rs.10 Crores.

2. I heard learned counsel for the petitioner Sri. Johnson Manayani and also the learned counsel appearing on behalf of the Bank.

3. Learned counsel for the Bank points out that nearly Rs.30 Lakhs is due. Counsel for the petitioner points out that the petitioner is prepared to pay off the amount remaining to be paid in instalments. He submits that possession may be given back and he can run the hotel and repay the amount in instalments.

2. Having regard to all facts the writ petition is disposed of as follows:

The petitioner is permitted to pay off the amount remaining due with interest in eight equal monthly instalments. The respondent Bank will serve a statement on the petitioner showing the exact amount due from the petitioner, calculating the amount of instalment on the basis that the petitioner has to repay the amount in eight equal monthly instalments. This shall be done within a period of two weeks from today. The first instalment shall be paid on or before 30.8.2007 and subsequent instalments shall be paid on the last working day of the succeeding months. The property, which has been taken possession of under Ext.P1 shall be returned to the petitioner forthwith. If any of the instalment is not paid by the petitioner, it will be open to the Bank to proceed against the petitioner, including by taking possession of the property in question. I make it clear that it will be open to the respondent Bank to grant such concessions as they feel can be granted to the petitioner.

(K.M. JOSEPH, JUDGE)

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